APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/687,846	10/13/2000	Cher Esque	3993968-128859	7769

23570	7590	05/05/2005

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EXAMINER
LASTRA, DANIEL

ART UNIT	PAPER NUMBER
3622	

DATE MAILED: 05/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

		Application No.	**Applicant(s)**
Office Action Summary		09/687,846	ESQUE, CHER
		Examiner	**Art Unit**	
		DANIEL LASTRA	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *31 January 2005*.

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3-15 and 17-20* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3-15 and 17-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some *   c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____ .

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____ .

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____ .

DETAILED ACTION

1.   Claims 1, 3-15 and 17-20 have been examined. Application 09/687,846

(SOFTWARE AND METHOD FOR MARKETING ARTISTS) has a filing date

10/13/2000.

Response to Amendment

2.   In response to Non Final Rejection filed 07/29/04, the Applicant amended claims

1, 3-12, 14, 15, 17-20 and cancel claims 2 and 16. Applicant amendment overcame the

previous claim objections.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-4, 8 and 12-20 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Leeke et al (U.S. 6,587,127).

As per claim 1, Leeke teaches:

A software product for marketing, the software product comprising:

a computer program operational when executed by a computer processor to

direct the computer processor to generate a main navigational window viewable on a

computer display and having a plurality of *links*, the plurality of *links* including *a*

marketed entities link and an avenues *link* (see column 5, lines 25-31; column 7, line 63

– column 8, line 16; column 9, lines 17-25; figures 2, 8, 12, 13 20, 22-27; column 32, line 63 – column 33, line 9);

wherein the computer program is operational when executed by the computer processor upon activation of the plurality of *links* to direct the computer processor to generate additional windows viewable on the computer display (see column 5, lines 25-31; column 7, line 63 – column 8, line 16; column 9, lines 17-25; figures 2, 8, 12, 13 20, 22-27)

wherein the *marketed entities link* opens *a marketed entities* window having data fields for entering and viewing *contact data* relating to particular *marketed entities* and the avenues *link* opens an avenues window having data fields for entering and viewing *contact data* relating to different avenues of marketing and a computer program storage medium operational to store the computer program (see column 5, lines 25-31; column 7, line 63 – column 8, line 16; column 9, lines 17-25; figures 2, 8, 12, 13 20, 22-27; column 32, line 63 – column 33, line 9);

wherein the plurality of links includes an events link and the event link opens an events window having data fields for entering and viewing contact data relating to particular events (see column 32, line 63 – column 33, line 9; figure 2, item 245) ;

wherein the avenues window provides access to data fields for entering and viewing contact data relating to radio, retail, media, and venues (see figures 2, 3, 8, 12 and 13);

wherein the data fields are linked by unique identifiers to form a relational database so that particular events are linked to the contact data for the particular

marketed entities and the contact data for the particular avenues of marketing (see

column 32, line 63 – column 33, line 9).

Leeke does not expressly teach *wherein the contact data relating to the particular*

marketed entities, the different avenues of marketing, and the particular events each

include a name, a postal address, a phone number, and an email address. However,

Leeke teaches a system where users rate marketed entities and provide feedback

messages to said marketed entities via e-mail (see column 7, lines 17-31). Therefore, it

would have been obvious to a person of ordinary skill in the art at the time the

application was made, to know that marketed entities, such as artists would make

available their contact information (i.e., name, phone numbers, e-mail and/or

addresses) to users, so said users provide said marketed entities with feedback about

said marketed entities' products. This way marketed entities would have suggestions

from users about how to improve said marketed entities' products.

As per claim 3, Leeke teaches:

The software product according to claim 1, wherein the avenues window includes

a radio *link* for opening a radio window having data fields for entering and viewing

contact data relating to a radio station (see figure 2), a retail *link* for opening a retail

window having data fields for entering and viewing *contact data* relating to a retail outlet

(see figure 50), a media *link* for opening a media window having data fields for entering

and viewing *contact data* relating to media (see figure 52-56), and a venue *link* for

opening a venue window having data fields for entering and viewing *contact data*

relating to a venue (see figure 13; column 5, lines 25-31; column 7, line 63 – column 8, line 16; column 9, lines 17-25).

As per claim 4, Leeke teaches:

The software product according to claim 1, wherein the *marketed entities* window provides access to data fields for entering and viewing *data* relating to a particular *marketed entity*, members associated with the particular *marketed entity*, and products associated with the particular *marketed entity* (see figures 20-21; 25-27; column 10, lines 5-15).

As per claim 8, Leeke teaches:

The software product according to claim 1, wherein the *marketed entities* window includes *a marketed entities* tab for opening a window layer having data fields for entering and viewing *data* relating to a particular *marketed entity*, a members tab for opening a window layer having data fields for entering and viewing *data* relating to members associated with the particular *marketed entity*, and a products tab for opening a window layer having data fields for entering and viewing *data* relating to products associated with a particular *marketed entity* (see figures 49-50).

As per claim 12, Leeke teaches:

The software product according to claim 1, wherein *the particular marketed entities are particular artists and* data fields are provided to store submissions of an artist by name and format (see column 13, lines 13-21; figures 20-21; column 32, lines 47-62).

As per claim 13, Leeke teaches:

The software product according to claim 12, wherein the format is one of a plurality of predetermined formats (see column 13, lines 13-21).

As per claims 14 and 15, Leeke teaches

The software product according to claim 12, wherein stored data can be moved between active and archived status and data in archived status can be retrieved by *at least one of* format, *the marketed entities, and the contact data* (see column 1, lines 14-20).

As per claim 17, Leeke teaches:

The software product according to claim *1*, wherein the events window includes data fields for entering and viewing an event type for each particular event and the event type is one of a plurality of predetermined event types (see figures 13-14; column 16, lines 1-25).

As per claim 18, Leeke teaches:

The software product according to claim *1*, wherein the events window categorizes event data according to avenues of marketing including radio, retail, media, and venue (see figures 3, 8, 12, 13).

As per claim 19, Leeke teaches:

The software product according to claim 1, wherein the plurality of *links* includes a search *links* and the search *link* opens a search window having data fields for entering and *storing data* relating to parameters of a search of stored data and the data fields of the search window are adjusted according to a selected avenue of marketing including radio, retail, media, and venue (see figures 22, 23).

Claims 5-7 and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leeke et al (U.S. 6,587,127) in view of White et al (U.S. 6,628,302).

As per claim 5, Leeke teaches the software product according to claim 4, but fails to teach wherein the *particular marketed entities includes a particular artist and the marketed entities* window provides access to data fields for entering and viewing *data* relating to tour dates associated with the particular artist, and an itinerary associated with the particular artist. White teaches a system that presents information related to the selection of particular artists, such as artist's biography, critic reviews, listing of other recording of the same selection by different artists, the artist's upcoming concert schedule, etc (see column 7, lines 1-22). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Leeke would present upon user's selection, the artist's upcoming schedule, as taught by White. This feature would help users know the artist's schedule and have the possibility of seeing the artist performs live.

As per claim 6, Leeke and White teach the software product according to claim 5, wherein the *marketed entities* window provides access to data fields for entering and viewing *data* relating to biographical information associated with the particular artist, and affiliations associated with the particular artist. White teaches a system that presents information related to the selection of particular artists, such as artist biography, critic reviews, listing of other recording of the same selection by different artists, the artist's upcoming concert schedule, etc (see column 7, lines 1-22). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was

made, to know that Leeke would present upon user's selection, the artist's biography and related affiliations, as taught by White. This feature would help users obtain more personal information about their favorite artists.

As per claim 7, Leeke and White teach the software product according to claim 5, wherein the *marketed entities* window provides access to data fields for entering and viewing *data* relating to notes associated with the particular artist (see column 21, lines 1-16).

As per claims 9 and 20, Leeke teaches the software product according to claim 8, but fails to teach wherein the *particular marketed entity is a particular artist and the marketed entities* window includes a tour dates tab for opening a window layer having data fields for entering and viewing *data* relating to tour dates associated with the particular artist, and an itinerary tab for opening a window layer having data fields for entering and viewing *data* relating to an itinerary associated with the particular artist. However, the same rejection applied to claim 5 is applied to claim 9.

Claim 10, Leeke and White teach the software product according to claim 9, wherein the *marketed entities* window includes a biography tab for opening a window layer having data fields for entering and viewing *data* relating to a biography associated with the particular artist, and an affiliations tab for opening a window layer having data fields for entering and viewing *data* relating to affiliations associated with the particular artist. See rejection of claim 6.

As per claim 11, Leeke and White teach the software product according to claim 9, wherein the *marketed entity* window includes a notes tab for opening a window layer

having data fields for entering and viewing *data* relating to notes associated with the

particular artist (see column 21, lines 1-16).

Response to Arguments

4.   Applicant's arguments with respect to claims 1, 3-15 and 17-20 have been

considered but are moot in view of the new ground(s) of rejection.

The Applicant argues that the content player of Leeke does not include contact

data and cannot include this necessary private contact data because the content player

is accessed by the public. The Applicant further argues that such a public content player

would never be provided with private contact data in this manner and thus could never

be utilized to perform the function which is performed by the present invention.

The Examiner answers that the Applicant is arguing about features that are not

stated in the claims and/or in the Applicant's specification. Nowhere, in the claims or in

the specification is mentioned that the Applicant's contact data is a private contact data,

which is private to certain users. The claim recites "wherein the contact data relating to

the particular marketed entities, the different avenues or marketing, and the particular

events each includes a name, a postal address, a phone number, and an email

address". The claim does not recite that such information is private and can only be

accessed by certain users or that said contact information is not allowed to be accessed

by any user.

Conclusion

5.   Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action.   Accordingly, **THIS ACTION IS MADE FINAL**.   See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-

6720. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, ERIC W STAMBER can be reached on 571-272-6724. The right fax

number of the Examiner is 571-273-6720.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Daniel Lastra
April 25, 2005

RETTA YEHDEGA
PRIMARY EXAMINER